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50890	7590	66/13/2008	EXAMINER	
CAVEN & AGHEVLI			CHRISTENSEN, SCOTT B	
c/o INTELLEVATE, LLC			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ADVISORY ACTION

1. This Office Action is in regards to the most recent papers filed on 5/21/2008.

Response to Arguments

2. Applicant's arguments filed 5/21/2008 have been fully considered but they are not persuasive.

On pages 2-3, Applicant argues the rejection of claim 3. More specifically, Applicant argues that the combination of references does not teach a timestamp as required by the claim.

However, it is noted that the claim only requires that the timestamp indicates a time at which the set of statistics were captured. There is no requirement as to what "capture" means. A network interface that is transmitting information could be said to capture the information that is being transmitted. Furthermore, the term "indicating" does not require that the timestamp is the actual time of capture, only that it somehow indicates when the information was captured. Therefore, even if the capturing referred to the collection of the data that the component that is performing the metering of the network interface collects, the claim language would be met, as a timestamp that is the transmission time of the information would indicate that the information was collected sometime before the timestamp. If Applicant intends the time stamp to be the time that the set of statistics were collected by the component performing the metering, the instant claim should be amended to explicitly connect these components as well as

unambiguously requiring that the timestamp "is" the time rather than the timestamp "indicating" the time.

On pages 3-4, Applicant argues that the combination of references does not disclose "initiate a direct memory access transfer of the set of statistics in accordance with the received data specifying the time interval." However, the use of the term "in accordance" does not require that the direct memory access actually occurs during the time interval, or what the time interval specifies, only that the transfer is somehow in accordance with the time interval. There is also no requirement as to when the time interval is specified with relation to when the information is transmitted.

"a time interval" as claimed can refer to a start time and an end time, a time that corresponds to a certain event (e.g. an alert, trigger, alarm, etc.), a start time alone (e.g. start time is determined, end time is infinite), or a transmit by time (e.g. start time is infinite, end time is determined). Furthermore, the time interval is only specified by the data, not explicitly determined (i.e. the claim does not require "receive a time interval to perform..."). Therefore, if a time to transmit can be determined from the data, then the time interval is specified. In this case, the time interval must occur after the collection period is over, so a time interval is specified.

Further, according to RFC3577, paragraph 4, when certain conditions occur, the information can be transmitted. Thus, data is received that specifies a time interval to perform a transfer, where the time interval is immediately.

Applicant should amend the instant claim to clearly and unambiguously claim what Applicant regards as the invention with regards to the data that specifies the time interval and the transmission of information in accordance with the time interval.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Christensen whose telephone number is (571)270-1144. The examiner can normally be reached on Monday through Thursday 6:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. C./
Examiner, Art Unit 2144
/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2144